

ORDINANCE NO. O2014.12

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF TEMPE, ARIZONA, AMENDING
CHAPTER 33, ARTICLE II, TEMPE CITY CODE,
RELATING TO DOMESTIC WATER SERVICE
AND AMENDING CHAPTER 33, ARTICLE III,
TEMPE CITY CODE, RELATING TO WATER
FOR IRRIGATION.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,
as follows:

Section 1. That Chapter 33, Article II, Section 33-18 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-18. Applications for service; deposits.

(a) Before the city turns on water to any premises or property, the owner, occupant, renter or lessee shall make ~~formal~~ application for water service with the office of the finance and technology director. THE CITY MAY REQUIRE AN OCCUPANT, RENTER, OR LESSEE TO PROVIDE A LEASE OR OTHER EVIDENCE OF THE RIGHT TO OCCUPY THE PREMISES OR PROPERTY AS A PART OF THE APPLICATION AND MAY REQUIRE THAT EVERY ADULT OCCUPANT, RENTER, OR LESSEE OF THE PREMISES OR PROPERTY BE LISTED ON THE WATER SERVICE ACCOUNT AS A PERSON WHO HAS CONTRACTED FOR THE CITY'S WATER SERVICE. Every person ~~applying~~ CONTRACTING for city water service ~~shall pay to the finance and technology director the sum of five dollars (\$5) toward the cost of initiating such service and shall comply with all provisions of this section ARTICLE. If any water consumer fails or neglects to make such application, an additional charge of five dollars (\$5) shall be assessed.~~ CHARGES FOR CITY WATER SERVICE APPLICATIONS SHALL BE ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A).

(b) All consumers, other than property owners AS SPECIFIED IN SUBSECTION (C), before domestic water shall be furnished TO them, shall place a deposit with the finance and technology director sufficient to ensure the payment of water billed to them and to protect the city against loss occasioned by nonpayment of water bills. ~~Such deposit shall be a minimum of thirty dollars (\$30) for a single unit of residential service and twice the average monthly charges against the premises for the past six (6) months or one hundred fifty dollars (\$150) for a single~~

~~unit of commercial service.~~ THE MINIMUM DEPOSIT SHALL BE ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A). The total amount of the deposit shall be determined by the finance and technology director, taking into consideration the nature of the premises to be served, the expected consumption of water, the past payment record, if any, of the consumer and such other information as is necessary to provide an adequate deposit. Such deposit in no event shall exceed an amount equal to the estimate of the average charges against the premises for a period of three (3) consecutive months, ~~or the applicable minimum, whichever is greater.~~

(c) Property owners, upon submitting satisfactory proof of ownership and upon completing and signing an approved application for water service, will not be required to place a deposit at time of application for water service. However, upon ~~default of payment~~ FAILURE by the property owner TO PAY TIMELY for water consumed or other city services received, the finance and technology director may require the placement of a deposit, the amount of such deposit above for consumers other than property owners, before continuation or resumption of city services to the premises ~~against which a default or delinquency of city services to the premises exists or to any other premises or property owned by such property owner.~~

(d) If the consumer has ~~faithfully~~ TIMELY AND REGULARLY made payment to the city for water consumed, refuse, garbage and sewer services, the deposit shall be returned to ~~him~~ THE CONSUMER WHO PAID THE DEPOSIT at the expiration of thirteen (13) calendar months of such ~~faithful~~ TIMELY AND REGULAR performance. Deposits unclaimed after twenty-four (24) months from ~~initial~~ THE DATE THE deposit ~~shall escheat and revert to the city~~ BECAME REFUNDABLE ARE PRESUMED ABANDONED.

Section 2. That Chapter 33, Article II, Section 33-19 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-19. Turn-off valves.

All water supply pipes to buildings shall be properly supplied by the consumer with a suitable turn-off valve, inside the property line, to ensure against the danger of frost or bursts which may result in property damage. Such turn-off valve shall be kept in good order and shall be under the control of the consumer, whereas the turn-off valve and box on the curb shall be ~~in~~ **charge** UNDER THE CONTROL of the city. If domestic water service is turned off by the city for any reason and the service so turned off does not have a turn-off valve installed as required above on the property owner's premises for the turning off of such domestic water, such person shall, prior to the city again turning on such service, install in accordance with the provisions above a proper turn-off valve on such premises.

Section 3. That Chapter 33, Article II, Section 33-21 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-21. Discontinuance of service.

(a) Any person wishing to discontinue the use of domestic water shall give notice thereof at the office of the finance and technology director. When the water is ordered turned off from

any premises, all service charges and commodity charges for water supplied to such premises shall be immediately due and payable to the city and the water will not be turned on again until all such charges are paid, EXCEPT AS PROVIDED BY A.R.S. SECTION 9-511.01(G).

(b) Until ~~such~~ THE notice OF DISCONTINUANCE and ALL REQUIRED payments ~~shall~~ have been made, ~~such~~ THE premises shall be deemed occupied by ~~such consumer and his~~ THE PERSONS LISTED ON THE WATER SERVICE ACCOUNT AND THOSE PERSONS' liability continued.

(c) If ~~such consumer shall~~ THE PERSONS LISTED ON THE WATER SERVICE ACCOUNT have made a deposit with the city, the balance, if any, of such deposit shall be returned to ~~the consumer~~ THOSE PERSONS WHO PAID THE DEPOSIT, after deducting the amount of ~~such bills~~ ANY MONEY OWED ON THE WATER SERVICE ACCOUNT TO THE CITY. DEPOSITS UNCLAIMED AFTER TWENTY-FOUR (24) MONTHS FROM THE DATE THE DEPOSIT BECAME REFUNDABLE ARE PRESUMED ABANDONED.

(d) A consumer's water service may be discontinued for nonpayment of a bill for services rendered by the city at a previous location, provided such bill is not paid within twenty (20) days after the unpaid bill has been presented to the consumer at his new location.

(e) ~~When the consumer has been notified of the amount of billing remaining due after deduction of his deposit, the~~ THE finance and technology director may ~~assign the account to~~ USE THE SERVICES OF a collection agency TO COLLECT ANY PAST-DUE AMOUNTS OWED TO THE CITY PURSUANT TO THIS ARTICLE.

(f) Every person who shall request of the city that their domestic water be turned off AND ON for making repairs, etc., to their system shall pay to the finance and technology director ~~the sum of fifteen dollars (\$15)~~ A FEE for such service IN AN AMOUNT ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A).

Section 4. That Chapter 33, Article II, Section 33-41 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-41. Multiple services through single meter.

(a) The city may furnish a meter for each unit of service that has a separate tap in the city main, and the city may at its option elect to allow more than one unit of service to be served by a single meter. This permission may be given in any one of the following cases:

- (1) Extreme cases which the city has allowed to previously exist;
- (2) Apartment houses;
- (3) Hotels;

- (4) Motels;
- (5) Mobile home and trailer developments;
- (6) Multiple family dwellings;
- (7) Townhouses, condominiums and buildings or dwelling groups containing individual units of individual ownership.

(b) Permission allowing the single-meter service pursuant to subsection (a) shall be contingent upon the following conditions being met:

- (1) The person having actual supervision over the units affected shall guarantee to pay for all water used through the meter.
- (2) Cash or a certificate of deposit shall be placed in a federally insured financial institution of the consumer's choice in an amount ~~equal to the estimate of twice the average monthly charges against the units or premises for the past six (6) months or fifteen dollars (\$15) per unit, whichever is greater~~ ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A). The cash or certificate of deposit shall be deposited with and be negotiable by the finance and technology director in the event of default on any payment to the city. If the consumer has ~~faithfully~~ TIMELY AND REGULARLY made payment to the city for water consumed, refuse, garbage and sewer service, the cash or certificate of deposit shall be returned to the consumer at the expiration of thirteen (13) calendar months of such faithful performance; except, that the city shall have an option to require the cash or certificate of deposit to remain with the finance and technology director for an additional twelve (12) months. In the event payments for water consumed, refuse, garbage and sewer service shall be thirty (30) days delinquent, the finance and technology director may deduct from the cash deposit or negotiate such certificate of deposit and use the proceeds for such delinquent accounts, returning the balance to the consumer less reasonable charge for discontinuance or resumption of water service.
- (3) If the units comprising the premises served by the single meter have multiple ownership, the covenants, conditions and restrictions on the respective units of property deeds shall clearly state that the individual lots or units are jointly and severally liable for any and all delinquent water consumed, refuse, garbage and sewer services received from the city.
- (4) Upon default of payment by the consumer for water consumed, or other city services received, the finance and technology director may require the placement of a cash or a certificate of deposit AS A DEPOSIT, the amount of such cash or certificate of deposit ~~to be the average charges against the units or premises for a period of six (6) consecutive months, or thirty dollars (\$30) per~~

~~unit, whichever is greater~~ SHALL BE ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A), before resumption of city services to the premises against which a default or delinquency of city services to the premises exist or to any other premises or property owned by such property owner. If the consumer thereafter makes faithful TIMELY AND REGULAR payment to the city for water consumed, refuse, garbage and sewer service, the cash or certificate of deposit shall be returned to the consumer at the expiration of twelve (12) calendar months of such faithful performance; except, that the city shall have the option to require the cash or certification of deposit to remain with the finance and technology director for an additional twelve (12) months. In the event payments for water consumed, refuse, garbage and sewer service shall be thirty (30) days delinquent, the finance and technology director may deduct from the cash deposit or negotiate such certificate of deposit and use the proceeds for such delinquent accounts, returning the balance to the consumer less reasonable charges for discontinuance or resumption of water service.

Section 5. That Chapter 33, Article II, Section 33-42 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-42. Testing of meters.

~~It shall be the privilege of each water consumer of the city to insist upon a meter test. After the meter has been field tested by the city and if such meter is found incorrect it shall be replaced by the city. If the field test indicates that the meter is registering correctly, the water consumer may insist that the meter be removed and subjected to a shop test. If the shop test indicates that the meter is registering correctly, a charge of twenty five dollars (\$25) will be levied against the consumer requesting such test.~~

A WATER CUSTOMER MAY REQUEST THAT THE CITY CONDUCT AN ACCURACY TEST ON THE CUSTOMER'S WATER METER. FOR RESIDENTIAL CUSTOMERS, THE CITY SHALL REPLACE THE WATER METER AND TEST IT FOR ACCURACY. FOR NONRESIDENTIAL CUSTOMERS, THE CITY SHALL CONDUCT A FIELD TEST AND, IF FURTHER TESTING IS WARRANTED, MAY REPLACE THE WATER METER AND CONDUCT ADDITIONAL TESTING. IF TESTING DEMONSTRATES THAT THE WATER METER IS ACCURATE, BASED ON INDUSTRY STANDARDS, THE CITY SHALL CHARGE THE CUSTOMER AN AMOUNT ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A).

Section 6. That Chapter 33, Article II, Section 33-44(e) of the Tempe City Code is hereby amended to read as follows:

Sec. 33-44. Tampering with, injuring meters; unlawful possession of equipment or reinstatement of service.

(e) No person, whose water service has been discontinued, ~~and rendered inoperable by the city placing a seal on the turn-off valve of the water meter shall break or remove such seal~~

SHALL TAMPER WITH CITY FACILITIES OR EQUIPMENT in an effort to reinstate water service. Any person who ~~breaks or removes such seal~~ TAMPERS WITH CITY FACILITIES OR EQUIPMENT, in addition to other penalties provided by laws, shall pay an ~~additional seventy-five dollars (\$75)~~ administrative charge IN AN AMOUNT ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A) prior to the city reinstating such water service.

Section 7. That Chapter 33, Article II, Section 33-56 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-56. Schedules.

The charges, RATES, DEPOSITS, AND FEES for providing domestic water service shall be established by city council resolution (see Appendix A).

Section 8. That Chapter 33, Article II, Section 33-57 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-57. When payable; disconnection for delinquent charges; resumption of service.

(a) All flat rates, service charges and charges for metered water used during the previous month shall be due and payable at the office of the finance and technology director when rendered ~~and shall be delinquent ten (10) days thereafter~~. PAYMENT SHALL BE SUBMITTED BY THE DUE DATE PRINTED ON THE MONTHLY STATEMENT OR SHALL BE DELINQUENT THEREAFTER. EACH PERSON LISTED ON THE WATER SERVICE ACCOUNT IS JOINTLY AND SEVERALLY RESPONSIBLE FOR PAYMENT OF ALL CHARGES. The finance and technology director may designate certain private establishments as authorized city water payment stations, in the capacity of limited agents, for the purpose of collecting any such charges. These payment stations so designated shall be required to perform pay station functions in accordance with rules and instructions issued by the finance and technology department and shall be paid a collection fee for the faithful performance of these functions in accordance with a schedule of fees previously authorized by the city council.

(b) If the total bill for any such charges is not paid ~~within five (5) days after~~ BY the date of delinquency, the water MAY ~~shall~~ be shut off from the premises of the delinquent consumer whereupon service shall not be resumed until all charges due plus applicable penalties have been paid. If the consumer necessitates, because of the delinquent status of ~~his~~ THE CONSUMER'S account, a personal call by a water service representative, whether or not service is turned off as a result of the personal call, a customer service charge, ~~of fifteen dollars (\$15) will~~ ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A), SHALL be assessed to the consumer's account. In addition, the delinquent consumer ~~will~~ SHALL be required to place a deposit ~~equal to four thirds of the applicable deposit~~ IN THE AMOUNT set forth in § 33-18 with the finance and technology department.

(c) No person other than an official or employee of the city shall turn on water from the city mains without written permission from the finance and technology director or the public works director. A PERSON WHO TAMPERS WITH THE CITY MAINS WITHOUT

WRITTEN PERMISSION SHALL BE ASSESSED A FEE AS ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A).

(d) Should the water be turned on to the premises by anyone except an employee of the department, after it has been turned off at the city's turn-off valve, it ~~will~~ MAY be turned off at the main and ~~will~~ SHALL not be turned on again until a ~~flat charge covering the expense of excavation and replacing of the paving, as established by the finance and technology director, subject to approval of the city manager,~~ shall have FEE ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A) HAS been paid.

(e) Anyone violating this section shall be guilty of a misdemeanor.

Section 9. That Chapter 33, Article II, Section 33-58(a) of the Tempe City Code is hereby amended to read as follows:

Sec. 33-58. Creation of lien for unpaid charges.

(a) UNLESS OTHERWISE PROHIBITED BY STATE LAW, ~~Delinquent~~ water charges shall constitute a lien against the property ~~upon which such lien may be imposed~~ WHERE THE SERVICES WERE PROVIDED. In order to impress and secure such lien, which shall be at the discretion of the finance and technology director, the following procedure shall be utilized:

- (1) The finance and technology director shall give written notice to the owner, ~~occupant or lessee~~ of the property within thirty (30) days after the statement is rendered by either personally serving or mailing to such owner, ~~occupant or lessee~~, at ~~his~~ THE OWNER'S last-known address by certified or registered mail, or the address to which the water charges billing was sent. This written notice shall indicate that the city may impress and secure a lien on the subject property unless the owner, ~~occupant or lessee~~ brings ~~his~~ THE delinquent bill current within thirty (30) days from service or receipt of the letter, and in addition, pays any penalties that may be due pursuant to § 33-57. The notice shall also contain a statement that the owner, ~~occupant or lessee~~ may appeal the delinquency to the city council by filing such appeal within the thirty-day time period after receipt of such notice.
- (2) If the owner, ~~occupant or lessee~~ of the property does not bring ~~his~~ THE delinquency current or successfully prosecute ~~his~~ AN appeal to the city council within the thirty (30) days from service or receipt of the registered or certified letter, the finance and technology director may prepare duplicate copies of a notice and claim of lien and file one copy with the county recorder and within a reasonable time thereafter service or mail by registered or certified mail the remaining copy with the owner, ~~occupant or lessee~~ of the property. The notice and claim of lien shall be made under oath by the finance and technology director or his duly authorized representative and shall contain the following:

- a. A description of the property sufficient for its identification;
- b. The name of the owner ~~or reputed owner~~ of the property ~~if known, otherwise the name of the occupant of lessee to whom service was rendered~~; AND
- c. The amount of the delinquent bill.

Section 10. That Chapter 33, Article III, Section 33-73 of the Tempe City Code is hereby amended to read as follows:

Sec. 33-73. Application for water service.

Before water will be distributed by the city to any lot or tract under this article, the owner or occupant thereof shall pay ~~a five dollar~~ AN application fee IN AN AMOUNT ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A) and execute and file in the office of the finance and technology director an application for water service on a form to be furnished by the finance and technology director.

Section 11. That Chapter 33, Article III, Section 33-75 of the Tempe City Code is hereby amended to read as follows:

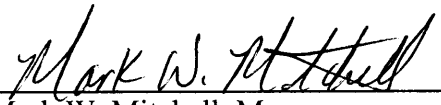
Sec. 33-75. Delinquent charges; discontinuance of service.

Whenever any person has failed to pay the cost of irrigation water in accordance with the provisions of this article, and the same has become delinquent, a notice shall be mailed stating that ~~fifteen (15) days from date of mailing the city shall seal such person's irrigation valve, and~~ no irrigation water shall be delivered ~~therefrom~~ until the lot owner or person desiring the irrigation service reinstated has paid, in addition to all other charges, ~~the sum of ten dollars (\$10)~~ AN AMOUNT ESTABLISHED BY CITY COUNCIL RESOLUTION (SEE APPENDIX A) for the reinstating OF services. Such ~~sum of ten dollars (\$10)~~ AMOUNT shall be paid to the finance and technology director prior to such time irrigation water service is reinstated.

Section 12. The fees, deposits and charges specified in Tempe City Code, Sections 33-18(a), 33-18(b), 33-21(f), 33-41(b)(2), 33-41(b)(4), 33-42, 33-44(e), 33-57(b), 33-57(d), 33-73, and 33-75, and in effect on this date shall continue to be imposed until fees, deposits and charges for those sections are established by City Council Resolution.

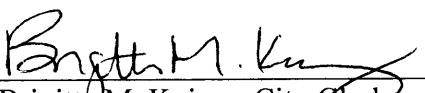
Section 13. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption or at any later date specified therein.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA this 20th day of March, 2014.




Mark W. Mitchell, Mayor

ATTEST:



Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:



Judith R. Baumann, City Attorney